

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

WP(C) No.160/2025
CM No.333/2025

Safdar Ali S/o Sh. Badar Din
R/o Bani Tehsil Bani District Kathua
Through his Power of Attorney holder namely
Sh. Badar Din S/o Late Sh. Rustam Butt
R/o Bani Tehsil, District Kathua

.... Petitioner(s)

Through :- Mr. Mohd. Latif Malik, Advocate.

V/s

1. Union Territory of Jammu & Kashmir
through Commissioner/Secretary Revenue
Department, Civil Secretariat, Jammu.
2. Sub-Divisional Magistrate, Collector
Land Revenue Act, Bani.
3. Tehsildar Bani.
4. Darshan Singh, Naib Tehsildar Bani.
5. Vipin Devi W/o Sh. Pardeep Kumar
R/o Bani, Tehsil Bani District Kathua.

....Respondent(s)

Through :- Ms. Priyanka Bhat, Advocate vice
Mrs. Monika Kohli, Sr.AAG.

Coram: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER
30.01.2025.

01. Petitioner through the medium of the instant petition has called in question order dated 18.12.2024 passed by the Court of learned Additional Commissioner, Jammu exercising powers as Divisional Commissioner, Jammu in a revision petition titled “**Safdar Ali V. Vipin Devi & Ors.**” by virtue of which revision petition filed by the petitioner has been dismissed. Feeling aggrieved of the same, the instant petition has been filed under Article 226 of the Constitution of India.

From a bare perusal of the impugned order, the petitioner has assailed the order passed by the Sub-Divisional Magistrate, Bani dated 31.10.2023 before the Additional Commissioner, Jammu by preferring a revision petition which revision petition has been dismissed vide order/judgment dated 18.12.2024. The order which has been assailed before the Revisional Court pertains to constitution of a committee comprising of certain officials to demarcate Khasra No. 214 of village Bani wherein a direction has been issued to the committee to furnish a detailed report within a week's time. The aforesaid committee was constituted pursuant to the complaint preferred by Smt. Vipin Devi W/o Pardeep Kumar wherein; it has been alleged that some illegal construction/possession has been taken over on the land of the complainant and accordingly, concerned Patwari was directed to furnish report after spot verification. The concerned Patwari also reported that Khasra 214 is complicated and accordingly, a request was made to constitute the said committee for demarcation of the said Khasra No. 214. The aforesaid order of constitution of committee of the land belonging to the petitioner bearing Khasra No. 214 was assailed by the petitioner by filing a revision on the ground that the petitioner has not been heard while constituting the said committee and an ex-parte order has been passed.

02. The aforesaid revision has been preferred by the petitioner against the ex-parte order issued by respondent No. 2 allegedly on the basis of the complaint preferred by the private respondent. It has also been alleged in the revision preferred by the petitioner that respondent No. 2 failed to verify the fact that respondent No. 1 is having locus to file the said application as she is not having any land adjacent to the land sought to be demarcated and no right whatsoever is being infringed because of the land of the petitioner for which the demarcation is

sought. However, according to learned counsel for the petitioner, the respondent No. 2 has passed the illegal order which is against the mandate of Section 94 of the Land Revenue Act and violative of the principles of natural justice. Learned counsel appearing on behalf of the petitioner has also laid much emphasis on Section 94 of Land Revenue Act. For facility of reference, the same is reproduced as under:

“94. Power of Revenue officer to define boundaries. –(1) A Revenue Officer may, for the purpose of framing any record or making assessment under this Act or on the application of any person interested, define the limits of any estate, or of any holding, tenancy, field or other portion of an estate, and may, for the purpose of indicating those limits, require survey-marks to be erected or repaired.

(2) In defining the limits of any land under sub-section (1), the Revenue Officer may cause survey-marks to be erected on any boundary already determined by, or by order of, any Court, or revenue Officer, or restore any survey-mark already set up by, or by order of, any Court or any such officer.

(3) The Revenue Officer to whom an application under this Section may be made may depute another Revenue officer subordinate to him to take the necessary proceedings.”

03. From a bare perusal of the aforesaid statutory provisions, it is emphatically clear that Section 94 of the Land Revenue Act provides that the Revenue Officers may on the application of any person interested for the purpose of framing any record or making the assessment under the Act or application of any person interested defines the limits of any estate meaning thereby that the application must be filed by the interested person for invoking the provisions under Section 94 of the Land Revenue Act. However, in the case in hand, according to learned counsel

for the petitioner, respondent No. 1 has no concern with the land belonging to the petitioner and has no concern to the land adjacent to the land of the petitioner and thus, is not an interested party who can file the said application to conduct demarcation and thus, according to the learned counsel for the petitioner, the order impugned passed by respondent No. 2 without ascertaining the locus of the respondents, is against law and liable to be set aside.

04. The Revisional Court after hearing both learned counsels for the parties was of the view that the Sub-Divisional Magistrate Bani has merely constituted a committee for demarcation of the land bearing Khasra No. 214 in village Bani and the petitioner feeling aggrieved of the same has rushed to the Revisional Court by preferring the revision petition on the ground of locus and other grounds mentioned in the preceding paragraphs. According to the Revisional Court, no cause of action as on date has accrued to the petitioner to prefer the said revision as the demarcation till date has not been done and any observation after the demarcation, incase any of the parties is aggrieved can prefer appeal before the competent Court. The Revisional Court was also of the view that the field agencies before reaching to any conclusion on the application moved by the respondent No. 1, the revision petition was preferred in absence of any final order involving question of law or public interest determining the rights of the parties.

05. I have perused the order passed by the Revisional Court and having heard both the parties at length, have consented for disposal of the instant writ petition at the very threshold. Accordingly, this Court has proceeded to dispose of the instant writ petition without issuing formal notice to the respondents. After going through the order impugned minutely, I concur with the observation of Additional Divisional Commissioner, Jammu exercising the powers as Divisional

Commissioner, Jammu. This Court is of the view that mere constitution of the demarcation committee, does not affect the rights of any party and as on date, no final order involving question of law or public interest has been passed which could have given justifiable cause to the petitioner to file revision petition determining the legal rights of the parties. The only ground which has been raised by learned counsel for the petitioner is that at the back of the petitioner, the said committee has been constituted for the demarcation of the land belonging to the petitioner which has caused prejudice to the petitioner and feeling aggrieved of the same, the said revision petition was preferred which was dismissed and feeling aggrieved of the same, the instant petition has been preferred.

06. This Court with a view to do complete justice to the petitioner deems it proper to modify the order passed by the Additional Divisional Commissioner, Jammu dated 18.12.2024 by virtue of which the revision has been dismissed having not accepted and the order passed by the SDM Bani has been upheld, to the extent that the committee so constituted shall demarcate the land in question bearing Khasra No. 214 of Village Bani within a period of one month from today and while conducting the demarcation, all the stakeholders including the petitioner and other interested persons, shall be notified in advance by the said committee, the date of such demarcation and pursuant to the said demarcation, the committee is directed to furnish a report to the Office of SDM Bani who shall proceed thereafter, on the basis of the said report and take a decision within a period of two weeks, thereafter. It is made clear that in case, if the report of the demarcation committee goes against the petitioner, the petitioner will be at liberty to seek appropriate remedy under law. The writ petition is, accordingly, disposed in the manner indicated above.

07. It is made clear that in case, if any of the members of the committee so constituted has been transferred or retired Sub-Divisional Magistrate Bani will be at liberty to constitute a fresh committee within a period of one week from today, if the need arises and proceed accordingly in the manner indicated above.

08. The writ petition stands disposed of in the manner indicated above along with all connected application(s).

(Wasim Sadiq Nargal)
Judge

Jammu:
30.01.2025
Eva

Whether approved for reporting?	Yes/No
Whether approved for speaking?	Yes/No

